

DISCLAIMER

The materials included here are not legal advice and may not be used as legal authority. The primary legal authority for the practices described in this manual is the California Rules of Court.¹ This manual does not replace or supersede the California Rules of Court. It is merely a general summary of the applicable rules. The rules themselves are subject to change, and you should consult them directly.

In the event the information here differs from the California Rules of Court, you must follow the California Rules of Court. The California Rules of Court are referred to throughout this manual as "CRC" (for example, "CRC, rule 3").

The California Rules of Court are available at any law library, on the Internet at www.courtinfo.ca.gov/rules, or can be ordered for a fee by calling (800) 328-9352.

¹ See CRC rules 1–29.9 if you are appealing from the unlimited jurisdiction of the superior court to the Court of Appeal. Appeals from the limited jurisdiction of the superior court to the appellate division of the superior court are covered by CRC rules 100–144; transfer from the Appellate Division of Superior Court to the Court of Appeal is covered by CRC rules 61–69. This manual discusses only appeals to the Second Appellate District Court of Appeal, not to the Appellate Division.

INTRODUCTION

This manual describes in simple terms what you must do when you lose in the trial court and decide to appeal. It also covers the related California Rules of Court. The manual is intended for persons who represent themselves (also called “self-represented litigants,” “pro pers” or “pro ses”) in the California Court of Appeal, Second Appellate District. The Second Appellate District hears all appeals from Los Angeles, Ventura, Santa Barbara and San Luis Obispo Counties. This manual only covers civil appeals. It does not discuss criminal or juvenile dependency appeals nor does it cover writs in civil or any other kind of case.

You should seriously consider hiring an attorney if you are able to do so. Bringing a case to the Court of Appeal without an attorney is hard work, extremely complicated, and takes a good deal of time. If you choose to be self-represented, even though you do not need to pay attorney’s fees, there is still an expense associated with bringing an appeal, including filing and transcript fees. You also are held to the same standard as if you were an attorney. In most cases, you have only one chance to have the court hear your case. **You must follow all of the court’s rules and procedures or your case may be dismissed.** An attorney who has done some appeals and knows how to handle them will know what to do when, and can guide your case through the appeal process. You can proceed with your appeal on your own, but given the particular nature of your case, you may want to consult with a lawyer.

You must complete many steps when appealing a civil case. The steps are presented in this manual in the order in which they must be completed. Make sure to read all of each chapter before attempting to complete the steps. Ideally, you should read through the entire manual before beginning the appeal process. Questions you may have often will be answered later in the text.

The appendices to this manual include a timeline to assist you in computing and meeting applicable deadlines for an appeal ([Appendix 1](#)) and a glossary defining important terms used in the manual ([Appendix 4](#)).

All of the forms referred to in this manual are included in the final section entitled "Sample Forms and Instructions," along with detailed instructions for filling them out.

If you are reading a hard copy of this manual, you may want to go to the website for the Second Appellate District at www.courtinfo.ca.gov/2dca. There you will find the entire manual online and can print the sample forms. Just click on "Self-Help Manual" to access the manual. Other useful information is also available on this website, including directions to the court, parking information,

answers to frequently asked questions (click on "FAQ"), and the local rules, practices, and procedures of the court. You may also find online information about your own case by clicking on "Case Information." (See [Chapter 5](#).)

Many of the sample forms in this manual are also available online in Adobe Acrobat PDF format and may be filled out electronically for free at www.courtinfo.ca.gov/2dca/forms.htm. A shorter description of the civil appeal process (form APP-001) is also available at this Internet address.

It is extremely important to understand that the Court of Appeal does not retry the case, take new evidence, or decide which witnesses were telling the truth. Rather, it reviews the superior court trial or hearing for errors in law. The Court of Appeal presumes the superior court judgment is correct, and the appealing party must overcome this presumption to win the appeal. The Court of Appeal can only reverse a case if it finds an error of law that was so important to the trial court proceedings that it changed at least part (or all) of the outcome of the case. Because of this heavy burden of proof, it is quite difficult to win an appeal. Only about 15 percent of civil appeal cases are reversed.

You may not visit or talk about your case with a justice or a member of his or her staff. The staff in the Court of Appeal clerk's office will help you as much as they can, but they cannot give you legal advice or tell you what to put in your papers.

If you have any questions about the steps outlined in this guide, call the clerk's office at (213) 830-7000. The staff at the court would be happy to help you in any way that they can.

Good luck with your appeal.

TIMELINE

This timeline should be used as a guide to assist in calculating the proper time for meeting appellate court filing deadlines. The timeline is only a guide; if at any time you are unsure about approaching deadlines or scheduled court actions, call the Court of Appeal at 213-830-7000 or check your case at the Court's website at appellatecases.courtinfo.ca.gov/search.

Filed in Superior court

- Judgment or Appealable Order, Notice of Appeal, filing fee (\$655) and clerk's deposit (\$100) due when counting from date the judgment/order was file stamped or the notice of entry served:

If notice of entry served → 60 calendar days after service or mailing

If notice of entry not served → 180 calendar days after judgment entered.

Time may be extended up to 180 days by a timely motion to vacate, motion for new trial, motion for judgment notwithstanding the verdict, or motion for reconsideration

- After the filing of the *Notice of Appeal* (can be filed at the same time as the *Notice of Appeal*):

Designation of the record and deposit of money → 10 calendar days after the *Notice of Appeal* is filed.

Respondent's designation of additional items → 10 days after appellant's designation

Motion to contest Rule 5.1 election → 10 calendar days after election filed

Filed in the Court of Appeal

Civil Case Information Statement → 10 calendar days after the clerk mails you a notice that the form must be filed.

- After getting notice that record is filed with the Court of Appeal:

Appellant's Opening Brief → 30 calendar days OR 70 days after the filing of a rule 5.1 election, if the appeal proceeds without a reporter's transcript.

Respondent's Brief → 30 calendar days after Appellant's Opening Brief is filed.

Appellant's Reply Brief → 20 calendar days after Respondent's Brief is filed.

Petition for Rehearing → 15 calendar days after the filing of the opinion, the order of publication or the modification of opinion if it changes the judgment.

Answer to Petition for Rehearing → 8 calendar days after the filing of the Petition for Rehearing.

GLOSSARY (DEFINITIONS OF TERMS)

(Definitions of Terms)

appeal A review by the Court of Appeal of what happened in the superior court to determine whether any mistakes of law occurred and, if so, whether the party who filed the appeal is entitled to have the judgment or order of the court below reversed, vacated, remanded, or otherwise changed. If the ruling was by a judge having power to rule on cases involving \$25,000 or less, the appeal is to the appellate division of the superior court; if the ruling was made in the unlimited jurisdiction of the superior court having power to rule on matters involving more than \$25,000, the appeal is to the Court of Appeal. If something is “on appeal,” it means a *Notice of Appeal* has been filed and the case is in the appeal process at the Court of Appeal.

appellant The person filing the *Notice of Appeal*; the person who did not win at the trial or hearing in the superior court (or other agency having power to make rulings).

appellant’s opening brief (abbreviated AOB). The document filed by the appellant that sets out his or her story, the error that occurred and why that error is so important that the rulings of the trial court should be reversed. (See [Sample Form K](#).)

appellant’s reply brief (abbreviated ARB). The document filed in response to the respondent’s brief. It is limited to issues already raised in the appellant’s opening brief (AOB) or added in the respondent’s brief.

appellate court In California there are two levels of appellate court: the Court of Appeal and the Supreme Court. The Court of Appeal is the intermediate appellate court—intermediate between the superior court (trial court) and the Supreme Court. Appeals from the unlimited jurisdiction of the superior court with power to rule in cases involving more than \$25,000 are generally taken to the intermediate appellate court, which must review each and every appeal filed with it. Review of intermediate appellate court decisions is by petition for review in the Supreme Court, the highest state court in California. The Supreme Court selects which cases it will hear—less than 5 percent of petitions filed. (*See, appeal.*)

appendix An “appellant’s appendix” (abbreviated AA) is a document prepared by the appellant in place of the clerk’s transcript, which is prepared by the superior court. It includes the items that would have been designated had a clerk’s transcript been prepared. If respondent and appellant agree to prepare a single appendix together, it is called a “joint appendix” (abbreviated JA). Otherwise the respondent may prepare a “respondent’s appendix” (abbreviated RA) if there are additional documents that the respondent thinks should be included in the appellate record but which are not in the AA.

application. See **motion or application.**

brief A written summary of the relevant facts and procedural history of the case, the points and authorities concerning the law, and the argument of the party. (See [Sample Form K.](#)) A brief presents the issues you want to address and provides argument about why the superior court’s order or judgment should be changed or should be upheld. If your brief does not comply with the rules, it may be returned to you for correction.

California Rules of Court (abbreviated CRC). Rules put out by the Judicial Council, the California Judicial branch’s administrative body, for statewide use. They present the procedural requirements and time limits on handling cases in court. (These rules supplement the Code of Civil Procedure.)

cause of action The facts and legal theory supporting a particular claim in a lawsuit, such as a malpractice or contract cause of action.

citation (often shortened to “cite”). A reference to legal authority (such as a case, statute, or treatise) or a reference to the record (such as the clerk’s or reporter’s transcript).

Civil Case Information Statement A questionnaire that assists the court in determining whether a *Notice of Appeal* is timely and is from an appealable judgment or order. (See [Sample Form J.](#)) The form is filled out by each appellant or cross-appellant and filed with the Court of Appeal within 10 days after the clerk mails you a notice that the form must be filed.

clerk's transcript (abbreviated CT). Includes papers that are designated by the parties and that were filed or lodged with the clerk at the trial, all minutes, all written instructions to the jury (given or refused), and all exhibits (admitted or refused). (CRC rule 5.) The clerk's transcript provides the Court of Appeal with a picture of the procedural history of the case in the superior court.

codes A systematic collection of laws (statutes) dealing with a particular subject passed by the Legislature, for example the Code of Civil Procedure, Penal Code, etc.

counsel An attorney or attorneys representing an individual or business entity in a lawsuit or giving them legal advice.

CRC See California Rules of Court.

cross-appeal Sometimes, when each party in a case wins on some issues but loses on others, both sides may wish to appeal. The first party to file a *Notice of Appeal* becomes the appellant, and the other party becomes the respondent. When the respondent appeals from the same order or judgment, the second appeal is called a cross-appeal, and the party bringing it is called a cross-appellant. The deadline for bringing a cross-appeal is 20 days after the superior court clerk mails notification of the first appeal. (CRC rule 3(e)(1).)

declaration A written statement of facts known to the declarant and sworn to under oath or penalty of perjury. (See [Sample Form M](#).)

default When a party misses a deadline to pay a fee or file papers. The party is told of their default through a Notice of Default sent to the party in the mail. Typically, the Notice of Default allows the party a period of time to remedy the problem (usually 15 days).

defendant The person(s) the suit is being brought against in the Superior court.

demurrer A motion brought by the defendant saying that even if everything in the complaint is considered to be true, it is not sufficient to state a cause of action—that is that anything legally wrong has occurred. See Appendix 2.

discovery The process of finding out facts and developing evidence before trial in order to prove one's case. This occurs at the Superior court. The primary types of discovery are interrogatories, depositions, requests for admission, and requests for production.

discretion The freedom to make decisions within a broad range of reason, so long as they are not arbitrary or capricious.

exhibit A document or object formally presented to the Superior court as evidence. Exhibits can be lodged with the Court of Appeal, but only if they had previously been accepted or denied as evidence at the Superior court.

file-stamped A "file-stamped" document has the court's stamp with the date of filing in the upper right-hand corner making the document an official court document.

findings of fact When there is disagreement about what the facts of a case are, the judge or jury determines what the facts are by making findings of fact. The findings of fact -- for example, that the light was red, not green as the plaintiff alleges -- must be supported by evidence in the record.

frivolous appeal An appeal that is undertaken to harass the respondent or for delay *or* an appeal that is totally without merit.

good cause The reason the applicant should be permitted to do what he is asking to do.

judgment The final ruling of the trial court. Usually this is the end of the case in the trial court. Sometimes if there are many defendants, some of the defendants may get out of the case early, and there may be more than one judgment.

judicial notice Items the court accepts without proof, including well-known and indisputable facts, rules of court, rules of professional conduct, decisional and public statutory law of California, and the definitions of English words and legal expressions.

jurisdiction The authority or the power of the court to act. Generally there are certain things that must be done in order for the court to have jurisdiction. If a court does not have jurisdiction over your case, the case will be dismissed.

motion or application The procedure by which one asks the Court of Appeal to do something or to permit one of the parties to do something. In the appellate court, motions are most commonly used to augment (add to) the record, ask for extensions of time, and take judicial notice. The opposing parties may file an opposition to the motion, which is usually ruled on by a single judge. The motion is held for opposition 10 days from the date of service if personally served, or 15 days if served by mail. Applications are used for more routine matters, most commonly requests for extension of time to file a brief. (CRC ruled 43, 45.5.) However, the Second District does not differentiate between motions and applications.

Notice of Appeal (abbreviated NOA) A notice that must be filed in a timely manner to begin the process of appeal. The notice is filed by the aggrieved party (the person who “lost”) in the Superior court case and expresses that party’s desire to have the Court of Appeal reexamine all or part of the Superior court case for errors in law. (See [Sample Form A.](#))

opinion The final written decision of the Court of Appeal, including the reasons for that decision, the facts on which it is based, and instructions for any further actions.

order A court ruling on a motion or application or other matter.

party One who brings a lawsuit or has a lawsuit brought against him. One who takes part in a legal transaction.

plaintiff The party bringing the lawsuit in the trial court.

points and authorities A document that sets out each legal proposition, issue, or argument (the point) the party wishes to make, supported by citations to cases, statutes, or other sources (the authorities). Points and authorities (or “Ps & As”) accompany motions, giving legal reasons why the motion should be granted or denied. (See [Sample Form L.](#))

Proof of Service (abbreviated POS). When papers are served (see definition of “service” below), the *Proof of Service* is attached to the papers and tells what papers were served, to whom they were sent or delivered, the date of service, and who served the papers. (See [Sample Form C.](#)) If service is in person, the *Proof of Service* also states who actually got the papers and when. Whenever a paper is to be served on a party, the service should be made on the person’s attorney if he or she has one.

pro per, pro se, in propria persona Self-represented.

remittitur A document, issued by the Court of Appeal to the superior court that returns jurisdiction to the superior court after an appeal and shows the final judgment of the Court of Appeal.

reporter’s transcript (abbreviated RT). A transcript of everything that is said in the courtroom while court is in session, which the court reporter takes down and types.

respondent The person responding to the opening brief; the person who won in the trial court.

respondent’s brief (abbreviated RB) A brief filed by the party who “won” in the superior court that responds to the issues raised in the appellant’s opening brief with arguments why the rulings the trial court made were correct or, if they were in error, why the error was harmless.

serve and file All papers filed in the superior court or the Court of Appeal, unless otherwise noted, are to be accompanied by proof of prior service of a copy of the paper on the attorney for each party who is represented by a separate attorney or on the individual person if he or she is self-represented. Whenever the paper is required to be given or served on a party, the service should be made on the party’s attorney if he or she has one.

service The process of providing exact copies of the documents filed in court to the other parties involved in the case. It may be done in person, in which case the notice must be handed to the person himself or to a person designated to receive service, or it may be done by mail. Service must be done by someone over the age of 18 who is not a party to the case. The original signed Proof of Service is attached to the back of the original document being filed and tells who got the notice, what date it was served

and who served it. If service is in person, it will also give the name of the person taking the documents and the time and place of service. The court does not serve papers for you. **Everything filed with the Court of Appeal, unless otherwise noted, must be accompanied by a Proof of Service.** (See [Sample Form C.](#))

standard of review The rules or guidelines used by the Court of Appeal to determine whether the Superior court erred in making a particular ruling. (See Chapter 5)

statutes Laws enacted by the state Legislature or by Congress.

stipulation A written agreement between the parties. (See Chapter 2, footnote 1.)

submit When all of the briefing is completed and oral argument, if requested, has been heard the case is submitted to the court which means it is ready for decision. The next thing that will happen is the issuance of an opinion within 90 days of the last day of the month in which the case was submitted. After the case is submitted the court will not accept any further information or argument on the case.

superior court The trial court. The court of limited jurisdiction handles civil cases seeking \$25,000 or less; the court of unlimited jurisdiction handles all other civil cases. The appellate division of the superior court handles appeals from decisions made in the court of limited jurisdiction.

summary judgment When there is no issue of material fact the applicant may bring a motion for summary judgment on the basis he or she can prevail as a matter of law without the need for a trial.

table of authorities A listing of all of the legal cases, statutes and secondary authority used in the brief with the page on which each was used.

treatise A legal textbook setting out the principles of a given subject, such as a treatise on contracts.